

REMARKS

Upon entry of this Amendment, claims 30-36, 38-50, and 52-58 are pending and under current examination. Applicant has amended claims 30 and 45 to include the respective recitations of now-canceled claims 37 and 51. Support for this amendment to claims 30 and 45 may also be found in the specification at, for example, p. 9, ll. 19-24.

For the reasons presented herein, Applicant traverses the rejections set forth in the Office Action¹, wherein the Examiner rejected claim 58 under 35 U.S.C. § 101 as being directed to non-statutory subject matter; and rejected claims 30-58 under 35 U.S.C. § 102(b) as being anticipated by Sykes et al. (U.S. Patent App. Pub. No. 2002/0016169 A1) ("Sykes").

Rejection of Claim 58 under 35 U.S.C. § 101:

The Office Action asserts that claim 58 is directed to non-statutory subject matter. *See* Office Action, p. 2. In response to this rejection, and without conceding to the Office Action's assertions regarding alleged non-statutory matter, Applicant has amended claim 58 to recite a computer readable medium encoded with a computer program product. Applicant submits that this amendment overcomes the 35 U.S.C. § 101 rejection, and accordingly respectfully requests its withdrawal.

Rejection of Claims 30-58 under 35 U.S.C. § 102(b):

Applicant requests reconsideration and withdrawal of the rejection of claims 30-58 under 35 U.S.C. § 102(b) as being anticipated by Sykes. In order to establish anticipation under 35 U.S.C. § 102, the Examiner must show that each and every element as set forth in the claims is

¹ The Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Office Action.

found, either expressly or inherently, in Sykes. See M.P.E.P. § 2131. Sykes, however, does not disclose each and every element of Applicant's claims.

Specifically, Sykes does not disclose or suggest at least Applicants' claimed "when a match is found ... starting a set of location actions to improve the location of said mobile terminal being monitored within said given target area," as recited in independent claim 30, with a similar recitation in independent claim 45. In contrast, Sykes discloses that "the operating feature of the mobile terminal corresponding to the stored reference data is applied as soon as that reference data matches the data sent by the base station of the cell in which the mobile terminal is located . . ." Sykes, par. [0025] (emphasis added).

The Office Action alleges that the elements of Applicant's claims 30-58 are disclosed in Sykes at par. [0062]. See Office Action, pp. 2-5. For example, and with reference to Sykes at par. [0062], the Office Action alleges that "improving the location is relative according to the manner in which the claim language is written," and that "if a match is found indicating that the mobile unit is located on a plane then set actions can be applied to improve the location of the mobile phone . . ." See Office Action, p. 4 (emphasis added). The Office Action, however, mischaracterizes Sykes. The description in Sykes at par. [0062] that the Office Action references, simply discloses that

when a user enters a particular space, such as an aircraft or a concert hall, the base transceiver station associated with that space transmits specific data to the mobile terminal . . . [and the] data is compared in the terminal with stored reference data in order to turn off the mobile terminal in accordance with the stored operating feature.

Accordingly, contrary to the Office Action's allegations, par. [0062] of Sykes does not disclose "when a match is found ... starting a set of location actions" to improve the location of

said mobile terminal being monitored within said given target area,” as recited in independent claim 30, with a similar recitation in independent claim 45 (emphasis added).

Since Sykes does not disclose each and every element of independent claims 30 and 45, Sykes does not anticipate claims 30 and 45 under 35 U.S.C. § 102(b). Therefore, claims 30 and 45 should be allowable over Sykes. Dependent claims 31-36, 38-44, 46-50, and 52-58 should also be allowable at least due to their respective dependence from base claim 30 or 45. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(b) rejection.

Conclusion:

In view of the foregoing, Applicant requests reconsideration of the application and withdrawal of the rejections. Pending claims 30-36, 38-50, and 52-58 are in condition for allowance, and Applicant requests a favorable action.

If there are any remaining issues or misunderstandings, Applicant requests that the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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